

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EMERSON REDEVELOPERS URBAN
RENEWAL, LLC,

Plaintiffs,

v.

BOROUGH OF EMERSON AND
MAYOR DANIELLE DIPOLA,

Defendants.

Docket No. 2:20-cv-04728

Hon. Madeline Cox Arleo, U.S.D.J.

**CERTIFICATION OF JOSEPH B.
FIORENZO, ESQ. IN OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT**

Joseph B. Fiorenzo, Esq., of full age, certify as follows:

1. I am a Member of the law firm of Sills, Cummis & Gross, P.C., counsel to Plaintiff Emerson Redevelopers Urban Renewal, LLC and submit this Certification upon personal knowledge.
2. Annexed hereto as **Exhibit 1** is a true and correct copy of the Expert report of Art Bernard.
3. Annexed hereto as **Exhibit 2** is a true and correct copy of the Expert report of Eric Keller.
4. Annexed hereto as **Exhibit 3** is a true and correct copy of the October 19, 2001 Opinion in Community Developers and Management, LLC v. Borough of Emerson, BER-L-2734-00, as amended November 2, 2001.
5. Annexed hereto as **Exhibit 4** is a true and correct copy of the March 21, 2002 Transcript of Decision in Community Developers v. Borough of Emerson.

6. Annexed hereto as **Exhibit 5** is a true and correct copy of the March 1, 2006 Borough of Emerson Redevelopment Plan, Prepared by Burgis Associates. Inc, March 2006.

7. Annexed hereto as **Exhibit 6** is intentionally omitted.

8. Annexed hereto as **Exhibit 7** is a true and correct copy of the July 8, 2015 Verified Complaint by the Borough of Emerson for Declaratory Judgment and Injunctive Relief.

9. Annexed hereto as **Exhibit 8** is a true and correct copy of the June 14, 2016 Minutes of Mayor and Council Meeting.

10. Annexed hereto as **Exhibit 9** is a true and correct copy of the June 27, 2016 Redevelopment Agreement by and between the Borough of Emerson and Emerson Redevelopers Urban Renewal, LLC.

11. Annexed hereto as **Exhibit 10** is a true and correct copy of the October 4, 2016 First Amendment to Redevelopment Agreement.

12. Annexed hereto as **Exhibit 11** is a true and correct copy of the October 4, 2016 Emerson Resolution No. 256-16.

13. Annexed hereto as **Exhibit 12** is a true and correct copy of the October 4, 2016 Minutes of Mayor and Council Meeting.

14. Annexed hereto as **Exhibit 13** is a true and correct copy of the December 20, 2016 Minutes of Mayor and Council Meeting.

15. Annexed hereto as **Exhibit 14** is a true and correct copy of the December 20, 2016 Borough of Emerson Notice of Adoption Ordinance No. 1535-16.

16. Annexed hereto as **Exhibit 15** is a true and correct copy of the January 17, 2017 Minutes of Mayor and Council Meeting.

17. Annexed hereto as **Exhibit 16** is a true and correct copy of the February 13, 2017 email from Brigitte Bogart to Robert Hoffmann re Block 419 pictures, attaching report.

18. Annexed hereto as **Exhibit 17** is a true and correct copy of the February 21, 2017 Resolution 92-17 Authorizing Certain Properties Previously Designated As An Area In Need Of Redevelopment Be Removed.

19. Annexed hereto as **Exhibit 18** is a true and correct copy of the July 18, 2017 Borough of Emerson Resolution No. 200-17.

20. Annexed hereto as **Exhibit 19** is a true and correct copy of the July 18, 2017 Minutes of Meeting of Mayor and Council.

21. Annexed hereto as **Exhibit 20** is a true and correct copy of the November 20, 2017 Second Amendment To Redevelopment Agreement.

22. Annexed hereto as **Exhibit 21** is a true and correct copy of the November 21, 2017 Letter from Adam Gordon, Esq. Fair Share Housing Center to Wendy Rubinstein, Counsel for Borough, re In the Matter of the Application of the Borough of Emerson, County of Bergen, Docket No. BER-L-6300-15.

23. Annexed hereto as **Exhibit 22** is a true and correct copy of the November 21, 2017 Meeting Minutes of Council.

24. Annexed hereto as **Exhibit 23** is a true and correct copy of the March 16, 2018 Special Master's Report.

25. Annexed hereto as **Exhibit 24** is a true and correct copy of the June 29, 2018 Order.

26. Annexed hereto as **Exhibit 25** is a true and correct copy of the November 8, 2018 Article "Emerson elects first woman mayor," The Record.

27. Annexed hereto as **Exhibit 26** is a true and correct copy of the November 9, 2018 Article DiPaola, Emerson's First Woman Mayor, Sweeps Lamatina's Team, Pascack Press.

28. Annexed hereto as **Exhibit 27** is a true and correct copy of the December 4, 2018 Minutes of Borough of Emerson Mayor and Council.

29. Annexed hereto as **Exhibit 28** is a true and correct copy of the December 6, 2018 Housing Element and Third Round Fair Share Plan, Borough of Emerson, Brigitte Bogart.

30. Annexed hereto as **Exhibit 29** is a true and correct copy of the December 10, 2018 Emerson Land Use Board Public Hearing Transcript.

31. Annexed hereto as **Exhibit 30** is a true and correct copy of the December 14, 2018 Special Master Mary Beth Lonergan filed Master's Report for a Mount Laurel Compliance Hearing Borough of Emerson ("Special Master's Report") and cover letter.

32. Annexed hereto as **Exhibit 31** is a true and correct copy of the December 14, 2018 Article "Did Emerson Land Use Board Do Enough? '419' Project Passes," Pascack Press.

33. Annexed hereto as **Exhibit 32** is a true and correct copy of the December 18, 2018 Emerson Mayor & Council Meeting Minutes.

34. Annexed hereto as **Exhibit 33** is a true and correct copy of the December 18, 2018 Meeting Minutes of Closed Executive Session.

35. Annexed hereto as **Exhibit 34** is a true and correct copy of the December 28, 2018 Resolution Of The Land Use Board Borough of Emerson In the matter of the Application of: Emerson Redevelopers Urban Renewal, LLC For Preliminary and Final Major Site Plan Approval as to Kinderkamack Road between Lincoln Boulevard and Linwood Avenue Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9 & 10.

36. Annexed hereto as **Exhibit 35** is a true and correct copy of the December 31, 2018 Third Amendment to Redevelopment Agreement.

37. Annexed hereto as **Exhibit 36** is a true and correct copy of the January 3, 2019 Article, "Historic Rise: DiPaola Takes the Reins in Emerson," Pascack Press.

38. Annexed hereto as **Exhibit 37** is a true and correct copy of the January 24, 2019 Article, "Mayors' Meeting: Redevelopment, Capital Projects Top Chamber Update," Pascack Press.

39. Annexed hereto as **Exhibit 38** is a true and correct copy of the January 25, 2019 Conditional Final Judgment of Compliance and Repose.

40. Annexed hereto as **Exhibit 39** is a true and correct copy of the February 15, 2019 email from Collene Goddel, Deputy Clerk, to Danielle DiPaola, Gerald Falotico, James Bayley, Brian Gordon, Ken Hoffman, Chris Knoller, Jill McGuire, John McCann, Richard Malagiere, Jane Dietsche re Notice of Motion to for Leave to File an Appeal - In the matter of the application of Emerson Redeveloper's Urban Renewal LLC, attaching Tanveer Hassan 178 Kinderkamack Road Appeal 2-14-19.pdf.

41. Annexed hereto as **Exhibit 40** is a true and correct copy of the February 19, 2019 Meeting Minutes of Closed Executive Session.

42. Annexed hereto as **Exhibit 41** is a true and correct copy of the February 25, 2019 Letter from Joseph Paparo, Esq., Porzio, to John McCann, Esq., re Emerson Redevelopers Urban Renewal, LLC Kinderkamack Road (Block 419) Redevelopment.

43. Annexed hereto as **Exhibit 42** is a true and correct copy of the March 4, 2019 Letter from Joseph Paparo, Esq., Porzio, to Adam Gordon, Fair Share Housing Center, re Emerson Redevelopers Urban Renewal, LLC, Kinderkamack Road (Block 419) Redevelopment.

44. Annexed hereto as **Exhibit 43** is a true and correct copy of the March 4, 2019 Letter from Joseph Paparo, Esq., Porzio, to John McCan, Esq., re Emerson Redevelopers Urban Renewal, LLC Kinderkamack Road (Block 419) Redevelopment.

45. Annexed hereto as **Exhibit 44** is a true and correct copy of the March 12, 2019 email from John McCann to Danielle DiPaola re Business Owners Sue Emerson Over Redevelopment Tactics - News From Pascack Press & Northern Valley Press.

46. Annexed hereto as **Exhibit 45** is a true and correct copy of the March 14, 2019 email from Gerald Falotico to Danielle DiPaola re Block 419.

47. Annexed hereto as **Exhibit 46** is a true and correct copy of the May 8, 2019 Letter from Brian Giblin, Esq., to Judge Gregg Padovano, re In the Matter of the Application of Emerson for a Declaratory Judgment, BER-L-6300-15.

48. Annexed hereto as **Exhibit 47** is a true and correct copy of the June 3, 2019 email from Jane Dietsche, Clerk, to Danielle DiPaola, Gerald Falotico, James Bayley, Brian Gordon, Ken Hoffman, Chris Knoller, Jill McGuire, Rich Sheola, Coleene Goddel, John McCann re Cork and Keg.

49. Annexed hereto as **Exhibit 48** is a true and correct copy of the June 19, 2019 Letter from William Hamilton, Bowman Consulting, to Marie Shust, Land Use Board Secretary, re Emerson Station Site Plan Application.

50. Annexed hereto as **Exhibit 49** is Intentionlly Omitted.

51. Annexed hereto as **Exhibit 50** is a true and correct copy of the June 25, 2019 email from Kerry Kirk Pflugh to Danielle DiPaola, Jane Dietsche, Rich Sheola, Maude Snyder re DEP Visit Follow Up.

52. Annexed hereto as **Exhibit 51** is a true and correct copy of the July 11, 2019 email from Jane Dietsche, Clerk, to Danielle DiPaola, Richard Sheola re Questions on Block 419 Plans.

53. Annexed hereto as **Exhibit 52** is a true and correct copy of the July 12, 2019 Letter from David Atkinson, Neglia Engineering Associates, to Borough of Emerson re Resolution Compliance / Engineering Review.

54. Annexed hereto as **Exhibit 53** is a true and correct copy of the July 15, 2019 Letter from Joseph Paparo, Esq. to John McCann, Esq., re Emerson Redevelopers Urban Renewal, LLC, Block 419 Redevelopment.

55. Annexed hereto as **Exhibit 54** is a true and correct copy of the July 15, 2019 email from Mike Sartori to Mendy Tendler re Remove meter from fire line.

56. Annexed hereto as **Exhibit 55** is a true and correct copy of the July 18, 2019 Letter from Christopher Statile to Danielle DiPaola re Emerson Station: Consistency with Land Use Board Resolution.

57. Annexed hereto as **Exhibit 56** is a true and correct copy of the July 19, 2019 email from David Atkinson, Neglia Engineering, to John McCann, Danielle DiPaola, Rich Sheola, Jane Dietsche re Emerson Station Revised Plans.

58. Annexed hereto as **Exhibit 57** is a true and correct copy of the July 24, 2019 Handwritten notes.

59. Annexed hereto as **Exhibit 58** is a true and correct copy of the August 2, 2019 Letter from Robert Kasuba, Bisgaier Hoff, to Richard De Angelis, Esq., re "Notice to Borough of Emerson to Cease & Desist" Dated July 29, 2019, 188-190 Kinderkamack Road, Emerson, New Jersey.

60. Annexed hereto as **Exhibit 59** is a true and correct copy of the August 2, 2019 Letter from Robert Kasuba, Bisgaier Hoff, to John McCann, Esq., re Notice to Borough of Emerson to Cease & Desist Dated July 29, 2019, 188-190 Kinderkamack Road, Emerson, New Jersey.

61. Annexed hereto as **Exhibit 60** is a true and correct copy of the August 5, 2019 email from Jane Dietsche to Fire Chief, Tom Carlos, Danielle DiPaola, Richard Sheola re Ranch Cleaners - Emerson Redevelopment

62. Annexed hereto as **Exhibit 61** is a true and correct copy of Emerson's Midpoint Review submission dated June 1, 2020.

63. Annexed hereto as **Exhibit 62** is a true and correct copy of the August 5, 2019 email from Jane Dietsche to Fire Chief, Tom Carlos, Danielle DiPaola, Richard Sheola re: Ranch Cleaners - Emerson Redevelopers.

64. Annexed hereto as **Exhibit 63** is a true and correct copy of the August 6, 2019 email from Danielle DiPaola to John McCann, Richard Malagiere re Ranch Cleaners - Emerson Redevelopment.

65. Annexed hereto as **Exhibit 64** is a true and correct copy of the September 3, 2019 Meeting Minutes of Closed Executive Session.

66. Annexed hereto as **Exhibit 65** is a true and correct copy of the September 5, 2019 Handwritten notes re Accurate.

67. Annexed hereto as **Exhibit 66** is a true and correct copy of the September 13, 2019 email from Board Secretary to Jeff Bischoff re Emerson, attaching Letter to Emerson Mayor re commuter spaces 9-13-2019.pdf, Sept. 19 LUB Agenda.docx, Sept. 5, 2019 LUB minutes.docx.

68. Annexed hereto as **Exhibit 67** is a true and correct copy of the September 17, 2019 Text message from Mayor DiPaola to Councilwoman Argenzia.

69. Annexed hereto as **Exhibit 68** is a true and correct copy of the September 17, 2019 Emerson Zoning Permit 219-279 to Accurate Builders for Block 416, Lot 6.01-6.02.

70. Annexed hereto as **Exhibit 69** is a true and correct copy of the September 17, 2019 email from John McCann to Robert Kasuba re Emerson: Computer parking.

71. Annexed hereto as **Exhibit 70** is a true and correct copy of the September 19, 2019 email from John McCann to Peter Flannery, Danielle DiPaola re Emerson: Computer Parking.

72. Annexed hereto as **Exhibit 71** is a true and correct copy of the September 19, 2019 email from John McCann to Peter Flannery, Danielle DiPaola, Rich Sheola, Zoning Official, Mike Sartori re Emerson: Computer Parking.

73. Annexed hereto as **Exhibit 72** is a true and correct copy of the September 20, 2019 email from Peter Flannery to John McCann, Robert Kasuba re Emerson Computer parking, attaching 20190920114077.pdf.

74. Annexed hereto as **Exhibit 73** is a true and correct copy of the September 24, 2019 Plan of Survey with pink overlay, Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, 10.

75. Annexed hereto as **Exhibit 74** is a true and correct copy of the September 24, 2019 Peter Flannery email to John McCann re Emerson: Computer, attaching 20190924100125.pdf.

76. Annexed hereto as **Exhibit 75** is a true and correct copy of the September 24, 2019 email from John McCann to Danielle DiPaola and Rich Sheola re Emerson: Commuter parking, attaching 20190924100125.pdf.

77. Annexed hereto as **Exhibit 76** is intentionally omitted.

78. Annexed hereto as **Exhibit 77** is a true and correct copy of the September 25, 2019 email from Peter Flannery to John McCann re Emerson: Computer parking.

79. Annexed hereto as **Exhibit 78** is a true and correct copy of the September 27, 2019 email from Peter Flannery to John McCann, Danielle DiPaola, Rich Sheola, Zoning Official, Mike Sartori re Emerson: Computer parking, attaching 20190924100125.pdf.

80. Annexed hereto as **Exhibit 79** is a true and correct copy of the October 2, 2019 email from Peter Flannery to Jack Klugmann, Rich Sheola, Aaron Weinberg, Jeff Wieboldt, John McCann, Jane Dietsche, Chief Mazzeo, Rich Silvia, Brian Gordon, Chris Knoller, Danielle DiPaola, Gerald Falotico, Jill McGuire, James Bayley, Ken Hoffman, Steve Aisenstark, Robert Kasuba re Emerson Block 419.

81. Annexed hereto as **Exhibit 80** is a true and correct copy of the October 2, 2019 email from Jack Klugmann to Rich Sheola, Aaron Weinberg, Jeff Wieboldt, John McCann, Jane Dietsche, Chief Mazzeo, Rich Silvia, Brian Gordon, Chris Knoller, Danielle DiPaola, Gerald Falotico, Jill McGuire, James Bayley, Ken Hoffman, Steve Aisenstark, Robert Kasuba re Emerson Block 419.

82. Annexed hereto as **Exhibit 81** is a true and correct copy of the October 3, 2019 Letter from Kasuba to Richard Sheola re Installation of Fencing, Block 419 Redevelopment.

83. Annexed hereto as **Exhibit 82** is a true and correct copy of the October 4, 2019 email from Peter Flannery to Rich Sheola, Robert Kasuba, Jack Klugmann, Jane Dietsche, John McCann, Construction Official, Brian Gordon, Chris Knoller, Danielle DiPaola, Gerald Falotico, Jill McGuire, James Bayley, Ken Hoffman re Emerson: Building Security - 419 Block.

84. Annexed hereto as **Exhibit 83** is a true and correct copy of the October 4, 2019 Letter from Richard Sheola to Robert Kasuba re Block 419 Redevelopment.

85. Annexed hereto as **Exhibit 84** is a true and correct copy of the October 4, 2019 email from Rich Sheola to Peter Flannery, Robert Kasuba, Jack Klugmann, Jane Dietsche, John McCann, Construction Official, Brian Gordon, Chris Knoller, Danielle DiPaola, Gerald Falotico, Jill McGuire, James Bayley, Ken Hoffman re Emerson: Building Security - 419 Block.

86. Annexed hereto as **Exhibit 85** is a true and correct copy of the October 7, 2019 Letter from Robert Kasuba to Richard Sheola re Block 419 Redevelopment.

87. Annexed hereto as **Exhibit 86** is a true and correct copy of the November 13, 2019 email from Mendy Tendler to Rich Silvia, Construction Official, Jack Klugmann, Steve Aisenstark, Peter Flannery, Robert Kasuba re Emerson.

88. Annexed hereto as **Exhibit 87** is a true and correct copy of the November 13, 2019 email from Mendy Tendler to Rich Silvia, Construction Official, Jack Klugmann, Steve Aisenstark, Peter Flannery, Robert Kasuba re Emerson.

89. Annexed hereto as **Exhibit 88** is a true and correct copy of the November 14, 2019 email from Jack Klugmann to Rich Silvia, Peter Flannery, Mendy Tendler, Robert Kasuba, Construction Official, Rivky Eismann re Emerson.

90. Annexed hereto as **Exhibit 89** is a true and correct copy of the November 14, 2019 Letter from Devereaux & Associates to David Atkinson re Resolution Compliance/Engineering Review.

91. Annexed hereto as **Exhibit 90** is a true and correct copy of the November 22, 2019 Letter from William Hamilton, Bowman Consulting, to Mayor and Council re Resolution Compliance I Engineering Review, Preliminary & Final Major Site Plan Emerson Redevelopers Urban Renewal, LLC, Block 419, Lots 1-4, 6.01, 6.02 and 7-10.

92. Annexed hereto as **Exhibit 91** is a true and correct copy of the November 25, 2019 Letter from Robert Kasuba to Robert Hermansen, Borough Administrator, re Emerson Commuter Parking Spaces Block 419 Redevelopment.

93. Annexed hereto as **Exhibit 92** is a true and correct copy of the November 27, 2019 email from John McCann to Peter Flannery, Robert Kasuba re Emerson: Block 419 Demo.

94. Annexed hereto as **Exhibit 93** is a true and correct copy of the December 14, 2019 UCC Permit.

95. Annexed hereto as **Exhibit 94** is a true and correct copy of the December 17, 2019 Meeting Minutes of Closed Executive Session.

96. Annexed hereto as **Exhibit 95** is a true and correct copy of the January 2, 2020 Meeting Minutes of Closed Executive Session.

97. Annexed hereto as **Exhibit 96** is a true and correct copy of the February 3, 2020 Article "Mayors Dish: Emerson Governing Body Weathering Unwelcome Redevelopment," Pascack Press.

98. Annexed hereto as **Exhibit 97** is a true and correct copy of the February 14, 2020 Kasuba Letter to R. Hermansen re: NJ Transit Station.

99. Annexed hereto as **Exhibit 98** is a true and correct copy of the February 19, 2020 Letter from Nicki Louloudis, Bowman Consulting, to Chief Anthony Sottile re Resolution Compliance I Engineering Review, Preliminary & Final Major Site Plan, Emerson Redevelopers Urban Renewal, LLC Block 419, Lots 1-4, 6.01, 6.02 and 7-10.

100. Annexed hereto as **Exhibit 99** is a true and correct copy of the February 19, 2020 Letter from Nicki Louloudis, Bowman Consulting, to Chief Michael Mazzeo re Resolution

Compliance I Engineering Review, Preliminary & Final Major Site Plan, Emerson Redevelopers Urban Renewal, LLC Block 419, Lots 1-4, 6.01, 6.02 and 7-10.

101. Annexed hereto as **Exhibit 100** is a true and correct copy of the February 20, 2020 Flannery letter to Martin re Preliminary and Final Major Site Plan Approval, Borough of Emerson Land Use Board, Emerson Redevelopers Urban Renewal, LLC, Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9 & 10.

102. Annexed hereto as **Exhibit 101** is a true and correct copy of the February 27, 2020 Letter from Joseph Fiorenzo to John McCann re Emerson Redevelopers Urban Renewal, LLC, Emerson Station - Block 419, Emerson.

103. Annexed hereto as **Exhibit 102** is a true and correct copy of the March 6, 2020 Letter from Angela Kostelecky, Devereaux & Associates to David Atkinson, Neglia, re Resolution Compliance / Engineering Review, Prelim. & final Major Site Plan, Emerson Redevelopers Urban Renewal, Block 419, Lots 1-4, 6.01, 6.02, & 7-10.

104. Annexed hereto as **Exhibit 103** is a true and correct copy of the May 1, 2020 Letter from Nickoletta Louloudis, Bowman Consulting, to Mayor and Council re Resolution Compliance I Engineering Review, Preliminary & Final Major Site Plan Emerson Redevelopers Urban Renewal, LLC, Block 419, Lots 1-4, 6.01, 6.02 and 7-10.

105. Annexed hereto as **Exhibit 104** is a true and correct copy of the June 16, 2020 Letter from David Atkinson, Neglia Engineering Associates, to Borough of Emerson re Resolution Compliance / Engineering Review Preliminary & Final Major Site Plan, Emerson Redevelopers Urban Renewal, LLC Block 419, Lots 1-4, 6.01, 6.02 and 7-10.

106. Annexed hereto as **Exhibit 105** is a true and correct copy of the March 16, 2021 Order in Aid of Litigants' Rights issued by Hon. Gregg Padovano.

107. Annexed hereto as **Exhibit 106** is a true and correct copy of the April 22, 2021 Order of Hon. Gregg Padovano appointing Implementation Monitor.

108. Annexed hereto as **Exhibit 107** is a true and correct copy of the April 28, 2021 Letter from David Atkinson, Neglia Engineering Associates, to Borough of Emerson re Resolution Compliance / Engineering Review Preliminary & Final Major Site Plan, Emerson Redevelopers Urban Renewal, LLC Block 419, Lots 1-4, 6.01, 6.02 and 7-10.

109. Annexed hereto as **Exhibit 108** is intentionally omitted.

110. Annexed hereto as **Exhibit 109** is a true and correct copy of the December 15, 2021 Certification of Jack Klugmann.

I certify that the foregoing statements by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SILLS CUMMIS & GROSS P.C.
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*Attorneys for Emerson Redevelopers Urban
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s/Joseph B. Fiorenzo
Joseph B. Fiorenzo

Dated: October 28, 2024